HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G.V. SEETHAPATHY

WRIT APPEAL NO. 797 OF 2006

BETWEEN

The District Collector,
District Election Officer,
Nalgonda District & others

.....

Appellants

And

A. Sudhakar

.....Respondent

Counsel for the Appellants : Government Pleader for Panchayat Raj

Counsel for the Respondent : Shri M.L. Ali

Dated: 07.08.2006

::JUDGMENT::

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 21.07.2006

passed by the learned Single Judge in W.P.M.P. No. 18604 of 2006 in Writ Petition No. 14926 of 2006 whereby election to the office of Sarpanch of Nemergomula Village, Bibinagar Mandal, Nalgonda District was stayed.

At the outset, we deem it proper to record the joint statement of the learned counsel for the parties that in view of stay order dated 27.07.2006 passed by the Division Bench in W.A.M.P.No.1634 of 2006, election to the office of Sarpanch of Nemergomula Village has already been held on 02.08.2006.

We have carefully perused the order under challenge and are convinced that the learned Single Judge committed a serious error by passing an order which has the effect of stultifying election to the office of Sarpanch. In our opinion, interlocutory/intermediary intervention by the Court in the process of election must be avoided in view of the catena of decisions of the Supreme Court - **N.P. Ponnuswami v. Returning Officer, Namakkal Constituency**[1], **Mohinder Singh Gill v. Chief Election Commissioner**[2], **State of U.P. v. Pradhan Sangh Kshetra Samiti**[3], **Boddula Krishnaiah v. State Election Commissioner**[4], **Anugrah Narayan Singh v. State of U.P.**[5], **Jaspal Singh Arora v. State of M.P.**[6] and **Election Commission of India v. Ashok Kumar**[7].

By a detailed order dated 03.08.2006 passed in Writ Petition No.14068 of 2006 (**Eppala China Venkateswarlu v. The Secretary to Government Social Welfare (F) Department, Government of Andhra Pradesh, Hyderabad & others**), this Court held that in view of the bar contained in Article 243-O of the Constitution, a writ petition filed under Article 226 questioning election to the panchayat is not maintainable except on the limited ground and purpose

identified in the judgments of the Supreme Court in **State of U.P. v. Pradahan Sangh Kshetra Samiti** (supra) and **Election Commission of India v. Ashok Kumar** (supra).

By applying the ratio of that order, we hold that the interim order passed by the learned Single Judge staying the election to the office of Sarpanch is legally untenable and is liable to be set aside. Ordered accordingly.

The appeal is allowed in the manner indicated above. However, it is made clear that this order shall not affect adjudication of the writ petition, which is pending before the learned Single Judge.

G.S. SINGHVI, CJ

G.V. SEETHAPATHY, J

07.08.2006
ksld/svs

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[1] AIR 1952 SC 64
[2] AIR 1978 SC 851
[3] 1995 Supp. (2) SCC 305
[4] (1996) 3 SCC 416
[5] (1996) 6 SCC 303
[6] (1998) 9 SCC 594
[7] (2000) 8 SCC 216